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FILED
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JAMES R. BROWNING, Clerk

IN THE

Supreme Court of the United States

October Term, 1958

No. 870

SYLVIA SCHINDLER HOLLAND,
Petitioner,

vs.

NORMAN N. HOLLAND,
Respondent.

APPENDIX TO PETITION FOR A WRIT OF CERTIORARI TO THE SUPREME COURT OF FLORIDA

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E. Proposed Bill of Review in Circuit Court for Dade County, Florida.

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A

ORDER EXTENDING TIME TO FILE PETITION
FOR WRIT OF CERTIORARI

SUPREME COURT OF THE UNITED STATES

OCTOBER TERM, 1958

No.

SYLVIA SCHINDLER HOLLAND,

Petitioner,

vs.

NORMAN NED HOLLAND.

ORDER EXTENDING TIME TO FILE PETITION FOR WRIT OF CERTIORARI

UPON CONSIDERATION of the application of counsel for petitioner,

IT IS ORDERED that the time for filing petition for writ of certiorari in the above-entitled cause be, and the same is hereby, extended to and including September 19th, 1958.

/S/ HUGO L. BLACK,
Associate Justice of the Supreme Court of the United States.

Dated this 23d day
of July, 1958.

B

ORDER OF THE SUPREME COURT OF FLORIDA,
APRIL 1, 1958.

IN THE

SUPREME COURT OF FLORIDA

January Term, A. D. 1958

Tuesday, April 1, 1958

SYLVIA SCHINDLER HOLLAND,

Petitioner,

vs.

NORMAN N. HOLLAND,

Respondent.

The petitioner has filed a petition for an order allowing her to file a bill of review or bill in the nature of bill of review in the Circuit Court in Dade County in above entitled cause; and, upon consideration thereof, it is ordered that said petition be and the same is hereby denied.

A True Copy

TEST

/s/ GUYTE P. MCCORD
Clerk, Supreme Court

C

ORDER OF THE SUPREME COURT OF FLORIDA,
MAY 20, 1958

IN THE

SUPREME COURT OF FLORIDA

January Term, A. D. 1958

Tuesday, May 20, A. D. 1958

[SAME TITLE]

On consideration of the Petition for Rehearing filed by Counsel for petitioner,

IT IS ORDERED by the Court that the said petition be, and the same is hereby, denied.

A true copy.

TEST

/s GUYTE P. McCORD
Clerk, Supreme Court

Exhibit C

PETITION FOR LEAVE TO FILE PETITION IN CIRCUIT COURT FOR LEAVE TO FILE BILL OF REVIEW

IN THE

SUPREME COURT OF FLORIDA

[SAME TITLE]

Comes now the petitioner, Sylvia Schindler Holland, and respectfully petitions and prays this Court for leave to file Petition for Leave to File Bill of Review or Bill in the Nature of Bill of Review in the Circuit Court of the Eleventh Judicial Circuit in and for Dade County, Florida, said Bill of Review or Bill in the Nature of Bill of Review seeking review of Final Decree of a certain cause lately pending in said Circuit Court and entitled Norman N. Holland, Plaintiff, vs. Sylvia Schindler Holland, defendant, and being Chancery Case No. 169465-A, which Final Decree on appeal to this Court was affirmed on the first day of May, A. D. 1957, and Petition for Rehearing den ed on the 5th day of June, A. D. 1957, copy of said Bill of Review or Bill in the Nature of Bill of Review being filed herewith, and together with the Record, Transcript, Exhibits, Briefs and other documents relating to the appeal aforesaid made a part of this Petition by reference.

Petitioner alleges that grounds for this Petition are the matters and things set forth and alleged in the Bill of Review or Bill in the Nature of a Bill of Review filed herewith, and particularly those things set forth in Paragraphs 5, 6, 7, 8, 9, 10, 11, 12, 13, 14, 15 and 16, said paragraphs alleging in substance the following matters and things which are violative of the Canons of Ethics and in legal effect deprived petitioner of a fair and imp. ial trial, equal protection of the law, and due process of law con-

templated by the Constitution of the State of Florida and of the United States of America, to-wit:

(A) The relationship existing between Judge George E. Holt, Jack D. Burris and Morton Rothenberg in the course of which relationship the said Jack D. Burris and Morton Rothenberg gave, donated and conferred upon the said Judge Holt substantial gifts and entertained said Judge at lavish social events.

(B) The financial relations between Judge George E. Holt and Thurman A. Whiteside, general partner of John Prunty, wherein the said Judge Holt received a tremendous percentage of profits on investments made at the suggestion and invitation of the said Thurman A. Whiteside.

(C) The personal relations between Judge George E. Holt and John Prunty in the course of which the said John Prunty gave, donated and conferred upon the said Judge George E. Holt various gifts and contributions and entertained the said Judge at lavish social events.

(D) The flagrant violation of Rule 10-D of the Circuit Court Rules of the Circuit Court in and for Dade County, Florida, which requires that Master's fees shall be fixed by the court and paid to the Master only upon Court order, the facts in the case at bar being that according to the Report of the Special Master John Prunty, the plaintiff in that case paid the fee of the Special Master who acknowledged receipt thereof; that the said report did not disclose the amount of the fee, the dates when the fee was paid and the amounts of such payments, except that the entire fee was paid sometime prior to the date of filing; that said Judge Holt overruled the exceptions duly taken by the defendant and ratified the payment by the plaintiff to the Special Master of the fee in an undisclosed amount without requiring any disclosure whatever, so as to afford the defendant an opportunity to be fully heard with respect thereto; that said fee of the Special Master was never fixed by the Court and never disclosed as to amount and time of payment.

(E) In the flagrant violation of Rule 10-D of the Circuit Court Rules of the Circuit Court in and for Dade County, Florida, the plaintiff and all of the attorneys participated, to-wit: Plaintiff, Norman N. Holland, and his attorneys of record, Stanley Joel Levine, Morton Rothenberg and Jack D. Burris.

And as further grounds of this Petition, petitioner alleges:

(F) That In the course of the proceedings the intentions of Norman N. Holland in regard to contemplated marriage with Judith H. Wartell was material to the issues and the said Norman N. Holland alleged that he had no plans for said marriage, but in truth and in fact the said Norman N. Holland did file application for license to marry Judith H. Wartell within four (4) days after entry of Final Decree aforesaid, and did on August 4, A. D. 1955, marry the said Judith H. Wartell.

(G) That from inspection and consideration of the record in the divorce case above mentioned, in the light of the facts occurring subsequently, it affirmatively appears:

(1) That plaintiff in said divorce proceedings, to-wit: Norman N. Holland, was not a bona fide resident of the State of Florida but came to the state solely for the purpose of obtaining a divorce to marry Judith H. Wartell.

(2) That the marriage of Norman N. Holland and Judith H. Wartell after the entry of the Final Decree demonstrates conclusively the perjury of the plaintiff Norman N. Holland and the lack of bona fides in said divorce proceeding.

The enumeration of the above grounds is not made for the purpose of limiting petitioner's grounds for relief thereon but for the purpose of directing the Court's at-

tention to the grounds upon which petitioner relies for relief in this cause and which are set forth more fully in the Bill of Review or Bill in the Nature of Bill of Review filed herewith, the allegations of which Bill of Review or Bill in the Nature of Bill of Review are made a part hereof by reference to the same extent as if copied herein at length.

Petitioner alleges that as is more fully and particularly alleged in said Bill of Review or Bill in the Nature of Bill of Review, the above ar foregoing matters were in large part unknown to her at the time of the entry of the Final Decree complained of and could not have been known to her by the exercise of reasonable diligence and that in large measure the same were disclosed and revealed gradually and the full knowledge thereof was revealed in the record of the impeachment trial of Judge E. Holt, which complete records were only recently available to petitioner.

WHEREFORE, petitioner respectfully prays that this Court will give her leave to file Petition for Leave to File Bill of Review or Bill in the Nature of Bill of Review in the Circuit Court of the Eleventh Judicial Circuit in and for Dade County, Florida, to review Final Decree in a certain cause lately pending in said Circuit Court entitled NORMAN N. HOLLAND, Plaintiff, vs. SYLVIA SCHINDLER HOLLAND, Defendant, and being Chancery Case No. 169465-A.

/s/ Mrs. SYLVIA S. HOLLAND
Petitioner

(Sworn to February 13, 1958.)

E-1

PROPOSED BILL OF REVIEW IN CIRCUIT COURT FOR DADE COUNTY, FLORIDA

IN THE

CIRCUIT COURT OF THE ELEVENTH JUDICIAL CIRCUIT

IN AND FOR DADE COUNTY, FLORIDA

In Chancery—Case No. ——

—o—

SYLVIA SCHINDLER HOLLAND,

Plaintiff,

vs.

NORMAN N. HOLLAND,

Defendant.

—o—

Comes now the plaintiff, Sylvia Schindler Holland, a resident of Nassau County, State of New York, and whose address is 29 Thompson Drive, East Rockaway, New York, having obtained leave of the Supreme Court of the State of Florida to bring petition for leave to file this Bill of Complaint in the Nature of a Bill of Review with the Circuit Court in and for Dade County, Florida, and by leave of said Circuit Court brings this her Bill of Complaint in the Nature of a Bill of Review against the defendant, Norman N. Holland, whom plaintiff contends is a citizen and resident of the County of Nassau and State of New York, but who is temporarily sojourning in Dade County in the State of Florida, and whose address is 235 83rd Street, Miami Beach, Florida, and thereupon complains and says:

1.

That the plaintiff herein is a citizen and resident of the County of Nassau in the State of New York, and that the defendant herein is a citizen and resident of the County of Nassau and State of New York.

2.

That the parties hereto were married on the 8th day of May, A. D. 1935, in Bellfonte, County of Millisburgh, State of Pennsylvania, and lived together as man and wife in the State of New York until on or about the 31st day of October, 1953, at which time the defendant wrongfully abandoned the plaintiff and the two children born of the marriage of plaintiff and defendant, to-wit: Zachary Stephen Holland, then aged 15 years, and Benay Holland, then aged 13 years, without any fault on the part of the plaintiff and without any cause, reason or justification.

That thereafter the defendant absconded from his domicile in the State of New York and came into the State of Florida and County of Dade for the sole purpose of fraudulently obtaining a divorce from the plaintiff as part of a fraudulent plan and scheme made in the State of New York between defendant and one Judith H. Wartell, a married woman who was then living with her husband and their two infant children in the State of New York, but with whom, for upwards of a year theretofore, defendant had engaged in an adulterous course of conduct, and pursuant to said plan and scheme defendant was to institute a divorce proceeding and obtain a decree of divorce against plaintiff herein, and the said Judith H. Wartell was to institute a divorce proceeding and obtain a decree of divorce against her then husband, whereupon the defendant herein and the said Judith H. Wartell were to marry each other, and on the 24th day of May, A. D. 1954, in pursuance of the said plan and scheme the defendant herein instituted divorce proceedings against the plaintiff in the Circuit Court of the Eleventh Judicial Circuit in and for Dade County, Florida, by filing in said court a Bill of Complaint; that thereafter, and on June 23, 1954, the plaintiff herein moved before the Senior Circuit Judge, the Honorable George E. Holt, to dismiss the said Bill of Complaint filed in said divorce proceedings, upon the ground that the defendant's purported residence in Florida was fraudulent and was established for the sole purpose of instituting an action for a di-

vorce against the plaintiff herein and thereby to perpetrate a fraud upon the plaintiff herein and upon the courts of the States of Florida and of New York, in which last mentioned forum there was then pending an action between the parties herein brought by the plaintiff herein for a judgment of separation from the bed and board of the defendant herein upon the grounds of the adultery of the defendant herein with the said Judith Wartell, cruel and inhuman treatment, abandonment, and failure to adequately support the plaintiff herein and their two children, and for other incidental relief, including, but not limited to custody of the children and suitable alimony; that the said motion having been denied by the said Judge Holt without prejudice and with leave to the plaintiff herein to plead the aforesaid matters in her Answer to said Bill of Complaint; that thereafter plaintiff herein filed a conditional appearance, and, reserving her rights arising out of the lack of jurisdiction of the said Court over the parties and the subject matter of the action because of the lack of bona fides of residence in the State of Florida of the defendant herein, to contest the jurisdiction of said court over the parties and subject-matter, filed her defense to said cause, said defenses consisting in substance of a complete denial of each and every allegation as to the jurisdiction of the Court over the parties and subject-matter of the cause, and each and every ground for divorce alleged in the said Bill of Complaint, and alleging certain affirmative defenses as follows:

"XII.

"Further answering the Complaint herein, the Defendant alleges that when the parties were married on the 8th day of May, 1935 in the State of Pennsylvania they were temporarily sojourning in that state as students attending Penn. State College, but that both were domiciled in the State of New York; that after returning to the State of New York from Pennsylvania upon the termination of their college careers, they continued to be domiciled in and

residents of the State of New York; that any purported residence established by the Plaintiff in the State of Florida in recent months is not in good faith but is an attempt on the part of the Plaintiff to perpetrate a fraud upon the Defendant and upon the courts of the States of Florida and New York.

XIII.

That although the Defendant has been a devoted, affectionate and dutiful wife and has done everything within her means to insure the Plaintiff's happiness, the Plaintiff became enamored of another woman whose name is well known to the plaintiff.

In the early part of 1953 the Plaintiff began to make public demonstrations of his affection for the said other woman. Matters progressed to the point where the said other woman would even visit the parties to this cause in their own home. The Plaintiff paid less and less attention to the Defendant and began to hold clandestine meetings with the said other woman. When the Defendant remonstrated with the Plaintiff and pointed out to him that his conduct was becoming noticeable to friends of the family and causing her embarrassment and humiliation, he resented the criticism.

On or about the 29th day of August, 1953 the Plaintiff became so furious that he struck the Defendant several times on her face with such violance that she bore bruises for several days.

XIV.

The Plaintiff, during the year 1953, absented himself from his home more and more, staying out until the early morning hours, and seemed to lose all interest in his home and his family; in fact, where he had been a devoted husband and father, he became very ill-tempered toward the children of the parties, criticizing everything they did.

In the month of August, 1953 Zachary Steven Holland, the son of the parties herein, suffered an accident which required surgery, and although the Defendant was greatly in need of the Plaintiff's presence and assistance, the Plaintiff delayed coming to the hospital for a matter of hours.

XV.

By the month of June, 1953 the Plaintiff was seeing the other woman mentioned hereinabove with such frequent regularity that he discontinued any marital relations with the Defendant and even refused to talk to the Defendant except to criticize her without justification; and about the 1st of October, 1953 the Plaintiff informed the Defendant that he no longer loved her and in fact was going to leave her, and finally on the 31st day of October, 1953 the Plaintiff left the home of the parties never to return.

XVI.

Although the Plaintiff had been accustomed to providing his family with cash, food and other benefits of a value of approximately Four Hundred ($400.00) Dollars a week, after the abandonment referred to immediately hereinabove the Plaintiff provided his family with the sum of One Hundred ($100.00) Dollars a week and during the month of January, 1954, reduced this amount to Seventy-Five ($75.00) Dollars, and at the same time caused the termination of all charge accounts which the Defendant had theretofore enjoyed.

XVII.

The Plaintiff committed adultery with the other woman hereinabove referred to, on various occasions during the year of 1953 at various places in the Greater New York area. The Plaintiff had surrep-

titious meetings with the said other woman and accompanied her to places not accessible to the Defendant, and in particular on November 29, 1953, November 30, 1953, December 6, 1953, December 7, 1953. On other occasions the Plaintiff had clandestine meetings with the said other woman in Forest Park, New York, on November 22, 1953, and December 13, 1953, on which last named date he was apprehended in the act of adultery.

XVIII.

The Defendant is informed and believes and therefore avers that both the Plaintiff and the aforesaid other woman have told numerous friends that the Plaintiff herein was coming to Florida to establish a residence for the purpose of procuring a divorce so that he could marry the said other woman.

XIX.

The Defendant is further informed and believes and therefore avers that the Plaintiff, as a part of a studied plan to withdraw support from the Defendant and the minor children of the parties, has entered into purported contracts with his mother to dispose of very valuable intangible personal property for a wholly inadequate consideration, thereby defrauding the Defendant and her children of the support to which they are entitled.

XX.

The Plaintiff owns stock in various family corporations, which provided him with a cash income in excess of Sixteen Thousand ($16,000.00) Dollars a year, and other benefits worth approximately the same amount. The Plaintiff has openly admitted the sale of said stocks hereinabove referred to, to his mother pursuant to a plan whereby he will receive

only Seventy-Five Hundred ($7500.00) Dollars a year for ten (10) years." (Answer, Paragraphs XII through XX, inclusive),

and thereafter certain proceedings were had in said cause resulting in the entry of final decree in favor of the defendant herein, Norman N. Holland, and against the plaintiff herein, Sylvia Schindler Holland, and granting unto the said Norman N. Holland a decree of divorce and dissolving the bonds of matrimony theretofore existing between the parties, said final degree of divorce having been entered on the 25th day of July, A. D. 1955, all of said proceedings being styled "Norman N. Holland, Plaintiff, vs. Sylvia Schindler Holland, Defendant", and lately pending in the Circuit Court of the Eleventh Judicial Circuit in and for Dade County, Florida, and being Chancery Number 169465A, all of said proceedings aforesaid, including, but not limited to, pleadings, notices, orders, reports, exhibits, documents, and instruments, are made a part hereof by reference as Plaintiff's Exhibit "A", the same as if set forth herein at length. (For purposes of brevity and the convenience of the Court, the entire file and all documents and papers therein are made a part hereof by reference as Plaintiff's Exhibit "A", and hereafter any particular paper, document, exhibit or other paper in said file will be designated as follows: Plaintiff's Exhibit "A-1", Plaintiff's Exhibit "A-2", etc. The exhibits contained in said file were previously introduced by the parties as exhibits in the status which they occupied in said proceedings, but said designations will be hereafter ignored and all papers in said proceedings will be referred to herein as the exhibits of plaintiff herein and appropriately lettered and numbered. Other papers, documents and exhibits not contained in the above proceedings and which will be referred to and made a part hereof by reference will be referred to and designated as Plaintiff's Exhibits "B", "C", "D" etc.)

3.

Plaintiff further alleges that said cause and the judgment and decree therein entered were appealed to the Supreme Court of Florida, and that said judgment and decree was affirmed by said Court without opinion on the 1st day of May, A. D. 1957, and thereafter a petition for rehearing was filed and said petition was denied, also without opinion, on the 5th day of June, A. D. 1957, the mandate and opinion of said Court being filed in the case papers in the Circuit Court of Dade County, Florida, and hereby specifically made a part hereof by reference as Plaintiff's Exhibit "A-12".

4.

Plaintiff alleges that certain matters and things transpired and existed during the period prior to, during and subsequent to the proceedings in the cause in the Circuit Court of the Eleventh Judicial Circuit of Florida, in and for Dade County, above referred to, which matters and things were then unknown to plaintiff herein and which could not have come to the knowledge of plaintiff herein by the exercise of reasonable diligence and were not and could not be presented to the Court on the trial of said cause, the substance of said matters and things being set forth hereinafter.

5.

Plaintiff alleges that the defendant herein, Norman N. Holland, plaintiff in the former proceedings, came to Florida with the sole intent to fraudulently obtain a divorce from plaintiff herein, and thereafter to marry the said Judith Wartell, a married woman, with whom, for upwards of a year theretofore, he had been engaged in an adulterous course of conduct, all of which was in pursuance of a common plan and scheme theretofore made between defendant herein and the said Judith Wartell to divorce their respective spouses and to marry one another, all of which is

hereinabove more fully alleged, and, pursuant to said fraudulent intent and scheme, retained as counsel Honorable Stanley Joel Levine who remained as counsel for said defendant herein throughout the proceedings and review of said proceedings above referred to, and further in pursuance of said fraudulent intent and scheme, the said Norman N. Holand, the defendant herein, established fraudulent residence in Dade County, Florida, and instituted divorce proceedings against the plaintiff herein, Sylvia Schindler Holland, which Bill of Complaint has been made a part hereof by reference as a part of the proceedings in said divorce action; that prior to, at or shortly after the institution of said proceedings in the Circuit Court in Dade County, Florida, the defendant herein, Norman N. Holland, retained as other and additional counsel, the firm of Rothenberg and Burris, the said partnership having as its members Honorable Morton Rothenberg and Jack D. Burris; that said cause was heard and the proceedings had and decree entered by the said Honorable George E. Holt, senior Circuit Judge of the Circuit Court in and for Dade County, Florida; that upon the filing of the Answer to the Bill of Complaint setting forth denials of the material allegations of said Bill of Complaint and the aforesaid defenses thereto by plaintiff herein as defendant in said former divorce proceeding, the matter was referred by the Honorable George E. Holt, hereafter referred to as Judge Holt, to Honorable John Prunty, a then practicing attorney in said county, who as a general partner of the law firm of Yonge, Whiteside & Prunty, practiced in the court of said county over which Judge Holt presided; that thereafter the said John Prunty, as Special Master, heard the testimony and proofs and filed his report recommending a decree in favor of the defendant herein, who was the plaintiff in the said former divorce proceedings, Norman N. Holland, and against the plaintiff herein who was the defendant in the said former divorce proceedings, Sylvia Schindler Holland; that thereafter the said Judge Holt

overruled the Exceptions duly taken by the plaintiff herein, who was the defendant in the said former divorce proceedings, to the said Report filed as aforesaid by the said John Prunty as Special Master and entered a decree adopting and confirming said Master's Report and granting a divorce against the plaintiff herein and in favor of the defendant herein; that all of said matters and things were known to the plaintiff herein at the time of the said former divorce proceedings, but the following matters and things specifically set forth hereafter were unknown to the plaintiff herein and could not have been known by the exercise of reasonable diligence, but which if known and presented to said Circuit Court and to the Supreme Court of the State of Florida on appeal would have resulted or should have resulted in the denial of a divorce to the defendant herein, Norman N. Holland, and the decree would have been or should have been entered in favor of the plaintiff herein, and the defendant in said former proceedings, Sylvia Schindler Holland, dismissing the Bill of Complaint in said former proceedings, said matters and things being more specifically set forth as follows:

(a) That it is now known to the plaintiff herein and was unknown to her at the time of the said former proceedings, that the said Judge Holt and the attorneys of record for the defendant herein, who was the plaintiff in the said former divorce proceedings, Norman N. Holland, to wit: the said Morton Rothenberg and the said Jack D. Burris, enjoyed a close personal relationship for many years with Judge Holt, and that it had been the custom of said Rothenberg and Burris to give, donate and confer upon the said Judge Holt gifts and to make substantial political contributions to Judge Holt during the periods of time that he was running for election and reelection, and that, over a period of years, it had been the custom and practice of the said Judge Holt to accept favors and gifts from the said Rothenberg and Burris and to frequently meet with them on

social occasions, having on many occasions been the guest of the said Rothenberg at lavish social events, all of which matters and things were unknown to the plaintiff herein at the time of said former proceedings and could not have been known by the exercise of reasonable diligence;

(b) That it was likewise unknown to the plaintiff herein, and could not have been known by the exercise of reasonable diligence that, at the time of the appointment by the said Judge Holt of the said John Prunty, as Special Master in said former proceedings, the said Judge Holt was involved in a financial transaction with Honorable Thurman A. Whiteside, the then general law partner of the said John Prunty, who had full knowledge of said financial transaction, and which financial transaction, in substance, purportedly involved an alleged investment by the said Judge Holt of approximately $450.00 for the purchase of an interest in certain airplane cylinders and which airplane cylinders were later alleged disposed of at an admitted profit to Judge Holt of some 900 percent on his alleged investment, the said Judge Holt later admittedly receiving from the said Thurman A. Whiteside the sum of approximately $3,981.73 as the proceeds of his alleged investment of $450.00, a substantial part of said alleged proceeds and profit having been paid by Thurman A. Whiteside long prior to the time when said airplane cylinders were allegedly sold and paid for by the alleged purchaser; that the said participation by the said Judge Holt was secret, except as to the said Thurman A. Whiteside and the said John Prunty; that the said participation by the said Judge Holt in said transaction was not recorded in the books of account of the said Thurman A. Whiteside, or in any other then current memorandum of said transaction, and no part of said alleged proceeds and profits that had been received by the said Judge Holt were reported by the said Judge Holt in his Federal Income Tax Return for the year during which said alleged proceeds and profits were so received.

but said alleged proceeds and profits were so reported in the said Judge Holt's Federal Income Tax Return for a year subsequent to the year in which said profits and proceeds were received but only after the commencement of investigations into the conduct and affairs of the said Judge Holt by the Grand Jury of Dade County for the Fall Term A. D. 1955, and succeeding Grand Juries in said county, by the Board of Governors of The Florida Bar, and by a special committee of the House of Representatives of the State of Florida to investigate charges of misconduct and unethical practices in office of the said Judge Holt, all of which matters and things were unknown to the plaintiff herein at the time of the said former divorce proceedings and could not have been known by the exercise of reasonable diligence, although it is now known to the plaintiff herein that the said purported financial transaction was in progress before and during the entire period during which said former divorce proceedings were pending before the said Judge Holt.

Plaintiff herein further alleges that the said Thurman A. Whiteside, the then general law partner of the said John Prunty, who was permitted by Judge Holt to receive and accept undisclosed amounts of money from the defendant herein, and who was the plaintiff in the said former divorce proceedings, not only was paying large sums of money to the said Judge Holt during the pendency of said former proceedings, as a result of the said alleged financial transactions, but was also active and instrumental in securing for the said Judge Holt special favors in relation to two automobiles purchased by the said Judge Holt, in that the said Thurman A. Whiteside did secure through divers means, contacts and influence, substantial reductions in the purchase price of said automobiles to the end that the said Judge Holt, as a result of the aforesaid activities of the said Thurman A. Whiteside, did save substantial sums of money in the purchase of the said two automobiles, all of which matters and things were known to the said Judge

Holt and to the said John Prunty, but were unknown to the plaintiff herein at the time of the former divorce proceedings, and which matters and things could not have been known to the plaintiff herein by the exercise of reasonable diligence.

(c). That the plaintiff herein has discovered and now knows that, for a long period of time, the said Judge Holt and the said John Prunty had been and were close personal friends for a period of upwards of twenty-five years, and that it was the custom and practice of the said Judge Holt and the said John Prunty, although one, to-wit: the said Judge Holt, occupied the judicial position of Circuit Judge and the other, to-wit: the said John Prunty, then was a general partner of the law firm of Yonge, Whiteside & Prunty, and was then a practicing lawyer, actively engaged in the practice of law before the said Judge Holt, to exchange gifts, and frequently to visit in each other's homes, and to go together to lavish social affairs, all of which matters and things were unknown to the plaintiff herein during the time of said former proceedings and could not have been known through the exercise of reasonable diligence.

(d) That it was likewise unknown to the plaintiff herein and could not have been known by the exercise of reasonable diligence that the said Judge Holt, in violation of his oath as an attorney and of his oath as a Circuit Judge, and the said John Prunty, in violation of his oath as an attorney at law, did not recognize the Canons of Ethics adopted by the Supreme Court of Florida governing the conduct of Judges, special masters and attorneys in this state, to be the law of the State of Florida and binding upon them, but the said Judge Holt and the said John Prunty did believe that they could, and as in this Bill of Complaint in the Nature of a Bill of Review is alleged by the plaintiff herein, they did violate and ignore with impunity, the said Canons of Ethics, during and with respect to the said former divorce proceedings.

(e) Plaintiff alleges that, as to the matters and things alleged in this sub-paragraph, she had knowledge during the progress of the said former divorce proceedings since they transpired and occurred as matters of record in said cause, but could not understand nor realize the significance of said matters and things due to her lack of knowledge of other matters and things set forth elsewhere in other sub-paragraphs of this Paragraph 5, said matters and things being in substance as follows:

That Rule 10-D of the Circuit Court Rules in and for Dade County, Florida, provides in part, as follows:

> "Masters shall report the amount of all funds received," and "No Master shall have authority to set his own fee, but may suggest to the Court what in his or her opinion may be the reasonable amount thereof."

That plaintiff herein, who was the defendant in the said former divorce proceedings, and her attorneys in the said proceedings, presumed and understood, as a matter of right, that, upon the presentation of the report of the said Special Master, the said John Prunty, to the said Judge Holt, there would be included in the said report, in accordance with the provisions of the said Rule 10-D of the said Circuit Court, the Canons of Ethics, and of good and ethical practice, a recommendation as to the reasonable fee to be allowed to the said John Prunty as Special Master in the said former divorce proceedings and that, after full disclosure in the said report of the amount of the fee recommended by the said John Prunty, as Special Master, and after affording to the plaintiff full opportunity to be heard with respect to the said fee and all of the facts and circumstances relating thereto, and after consideration of said recommendation and all other matters pertinent thereto, the said Judge Holt would fix a reasonable fee for the services of the said John Prunty as Special Master, but

that when the said Special Master's report was filed and submited to the said Judge Holt, there appeared in the recomendations of the Special Master the recommendation that the Court order and direct the plaintiff therein to pay the fee of the said Special Master for his services in the cause; that the said report of the said Special Master was signed at the end thereof by the said John Prunty as Special Master and that immediately below said signature of the said John Prunty, and also as part of the said report, there appears the additional matter to the effect that the fees of the said Special Master for his services in the cause had been paid by the plaintiff in the said cause, who is the defendant herein, and that receipt of the said fees was acknowledged by the said John Prunty as Special Master, all of which matters and things were contrary and repugnant to and violative of the said Circuit Court Rule 10-D, the Canons of Ethics adopted by the Supreme Court of Florida governing the conduct of Judges, Masters and Attorneys; that in said former divorce proceedings, the Master had failed to make a recommendation to the said Court as to a reasonable fee, and the said Court, the said Judge Holt presiding, had failed to inquire into the matter of the said fee paid by the defendant herein, who was the plaintiff in the said prior divorce proceedings, to the Special Master, as aforesaid, or to direct that the amount of the said fee and the time and place of payment thereof and all of the circumstances relevant thereto be reported to the said Court by the defendant herein, his said attorneys and the said Special Master, and to the plaintiff herein, who was the defendant in the said former divorce proceedings, although the said Court's attention had been specifically directed thereto by exception duly taken by the plaintiff herein, who was the defendant therein, specifically addressing objection to the said irregular and improper and highly prejudicial procedure in relation to the payment to the Special Master by the plaintiff therein of an undisclosed amount of money at an undisclosed time and undis-

closed place, which exception was denied and overruled by the said Judge Holt, and that the said Court adjudicated the reasonableness of the said fee, although it appears of record that at some undisclosed time, at some undisclosed place, while the said Special Master, John Prunty, was hearing said case and cause, and had said case and cause under consideration, the defendant herein, who was the plaintiff in the said former divorce proceedings, had paid to said Special Master an undisclosed amount of money, contrary to the said Rule aforesaid, contrary to the Canons of Ethics adopted by the Supreme Court of Florida Governing the Conduct of Judges and Attorneys in such cases, and contrary to proper and ethical practice and procedure; that the plaintiff herein, who was the defendant therein, was thereby deprived of her right to be heard thereon, and of a fair and impartial trial and of the equal protection of the laws, and of the benefits of due process of law guaranteed to the plaintiff herein by the laws of the State of Florida, the Constitution of the State of Florida, and the Constitution of the United States of America, and more particularly Sections 1, 4 and 12 of the Declaration of Rights of the Constitution of the State of Florida, and Section 1 of the Fourteenth Amendment to the Constitution of the United States of America.

6.

Plaintiff alleges that the matters and things set forth and alleged in the preceding paragraphs which were unknown to her at the time of the said former divorce proceedings and which could not have been known through the exercise of reasonable diligence, now clearly demonstrate the venality, bias and prejudice of the said Judge Holt, as the presiding Judge, and of the said John Prunty, as Special Master appointed by the said Judge Holt, in said former proceedings, in favor of the defendant herein, who was the plaintiff in the said former proceedings, and

against the plaintiff herein, who was the defendant in the said former proceedings, at the instance and instigation and as a direct result of the corrupt, debauching and unethical practices in and relating to the said former divorce proceeding on the part of the said George E. Holt, as Judge and his appointee, the said John Prunty as Special Master in said former proceeding, and the said Stanley Joel Levine, Morton Rothenberg and Jack Burris, as the attorneys for the defendant herein, who was the plaintiff in the former proceeding, and the defendant herein who was the plaintiff in the said former proceeding, which was contrived by all of the aforesaid persons, except the plaintiff herein, and did deprive the plaintiff herein of a fair and impartial trial and which resulted in the venal, biased and prejudiced report filed by the Special Master with the said Judge Holt in the said former proceedings in favor of the defendant herein, and the venal, biased and prejudicial ratification of the said Master's report, and also of the payment by the defendant herein and the acceptance by the said John Prunty, as Special Master, of a fee in an undisclosed amount in said former divorce proceedings and during the pendency of the said former divorce proceedings before the said John Prunty, as Special Master, and prior to the filing of the said Special Master's Report, and overruling the exceptions to the said Special Master's Report duly taken by the plaintiff herein, who was the defendant in said former divorce proceedings, and the granting of the said divorce decree in the said former proceedings in favor of the defendant herein and against the plaintiff herein, thereby arbitrarily, capriciously and wrongfully terminating the marriage ties then existing between the plaintiff herein and the defendant herein, who were, respectively, the defendant and the plaintiff in the said former divorce proceedings, thereby publicly casting a cloud upon the good name of the plaintiff herein and depriving the plaintiff herein of her rights flowing from said mar-

riage, including, but not limited to, her rights, both present and inchoate, accorded to a wife under and by virtue of the laws of the State of Florida and of the State of New York, in which last mentioned state both of the parties herein and their two children were, at all times, and still are domiciled, of maintenance and support, in property and in the estate of the defendant herein, as husband of the plaintiff herein, upon his death, without due process of law and without affording to the plaintiff herein the equal protection of the laws and the fair and impartial trial guaranteed to the plaintiff herein by the laws of the State of Florida, the Constitution of the State of Florida and the Constitution of the United States of America, and more particularly Sections 1, 4 and 12 of the Declaration of Rights of the Constitution of the State of Florida and Section 1 of the Fourteenth Amendment to the Constitution of the United States of America, in that it now appears that Judge Holt, without first informing, but keeping secret from the plaintiff herein, who was the defendant in the said former divorce proceedings, and thereby denying to the plaintiff herein an opportunity to take appropriate legal proceedings to effect the disqualification and removal of the said Judge Holt, as the presiding Judge, and the said John Prunty as Special Master in the said former divorce proceedings, sat and presided in said cause, well knowing:

(a) That the said Judge Holt and the attorneys of record for the defendant herein, Norman N. Holland, who was the plaintiff in the former divorce proceedings, to-wit: Morton Rothenberg and Jack D. Burris, enjoyed a close personal relationship for many years, and that it had been the custom of the said Rothenberg and Burris to give, donate and confer upon the said Judge Holt, gifts and to make substantial political contributions to the said Judge Holt during the periods of time during which he was running for election and re-election and that, over a period of years, it had been the custom and practice of the said

Judge Holt to accept favors and gifts from the said Rothenberg and Burris and to frequently meet with them on social occasions, on many occasions having been the guest of Rothenberg at lavish social events, all of which was in violation of and repugnant to the Canons of Ethics adopted by the Supreme Court of Florida, governing the conduct of Judges and attorneys in this state.

(b) That, at the time of the appointment by the said Judge Holt of Honorable John Prunty as Special Master in said former divorce proceedings, the said Judge Holt admittedly was involved in an alleged financial transaction with Honorable Thurman A. Whiteside, the then general partner of the said John Prunty, who had full knowledge of said alleged financial transaction, and which financial transaction, in substance, purportedly involved the alleged investment by the said Judge Holt of approximately $450.00 for the purchase of an interest in certain airplane cylinders and which airplane cylinders were allegedly disposed of at an alleged profit to the said Judge Holt of some 900% of his alleged investment, the said Judge Holt later admittedly receiving from the said Thurman A. Whiteside the sum of approximately $3,981.73 as the proceeds of his alleged investment of $450.00, a substantial part of said alleged proceeds and profit having admittedly been paid by the said Thurman A. Whiteside long prior to the time when the said airplane cylinders were allegedly sold and paid for by the alleged purchaser, but no part of said alleged proceeds and profit were reported by the said Judge Holt in his federal income tax return during the year during which said alleged proceeds and profit were received, the said alleged proceeds and profit being so reported in Judge Holt's federal income tax return long thereafter and only after the commencement of an investigation into the conduct and affairs of the said Judge Holt by the Grand Jury of Dade County for the Fall Term, A. D. 1955 and succeeding Grand Juries in said county, and by the Board

of Governors of The Florida Bar and by a special committee of the House of Representatives of the Legislature of the State of Florida, to investigate charges of misconduct and unethical practices in office of the said Judge Holt; that the said purported financial transaction was in progress before and during the entire period during which the said former divorce proceedings were pending before the said Judge Holt; that the said Thurman A. Whiteside, the then general partner of the said John Prunty, who was permitted by Judge Holt to receive and accept undisclosed amounts of money in violation of Rule 10-D of the Rules of the Circuit Court of Dade County, from the defendant herein, who was the plaintiff in the said former divorce proceedings, not only was paying large sums of money to the said Judge Holt during the pendency of said former divorce proceedings as a result of the said alleged financial transactions, but was also active and instrumental in securing for the said Judge Holt special favors in relation to two automobiles purchased by the said Judge Holt, in that the said Thurman A. Whiteside did secure through divers means, contacts and influence, substantial reductions in the purchase price of said automobiles to the end that the said Judge Holt, as a result of the activities of the said Thurman A. Whiteside, did save substantial sums of money in the purchase of said two automobiles, all of said matters and things being known to the said Judge Holt and to the said John Prunty, and all of which was in violation of and repugnant to the Canons of Ethics adopted by the Supreme Court of Florida governing the conduct of Judges and attorneys in this state;

(c) That, for a long period of time, the said Judge Holt and the said John Prunty had been and were close personal friends for a period of upwards of 25 years, and that it was the custom and practice of the said Judge Holt and the said John Prunty, although one, to-wit: the said Judge Holt, occupied the judicial position of Circuit Judge,

and the other, to-wit: the said John Prunty, then was a general partner with the said Thurman A. Whiteside of the law firm of Yonge, Whiteside & Prunty, and was then a practicing lawyer, actively engaged in the practice of law before the said Judge Holt, to exchange gifts, and frequently to visit in each other's homes and go together to lavish social affairs;

(d) That, Rule 10-D of the Circuit Court Rules in and for Dade County, Florida, provides, in part, as follows:

> "Masters shall report the amount of all funds received," and "No Master shall have authority to set his own fee, but may suggest to the court what in his or her opinion may be the reasonable amount thereof."

That the plaintiff herein, who was the defendant in the said former divorce proceedings, and her attorneys in the said proceedings, as a matter of right, presumed and understood that, upon the presentation of the report of the said Special Master, the said John Prunty, to the said Judge Holt, there would be included in the said report, in accordance with the provisions of the said Rule 10-D of the said Circuit Court, the Canons of Ethics, and of good and ethical practice, a recommendation as to the reasonable fee to be allowed to the said John Prunty, as Special Master in the said former divorce proceedings, and that, after full disclosure in the said report of the amount of the fee recommended by the said John Prunty, as Special Master, and after affording to the plaintiff full opportunity to be heard with respect to the said fee and all of the facts and circumstances relating thereto, including, but not limited to the amount thereof and the time and place of payment thereof, and, after consideration of the said recommendation and all other matters pertaining thereto, the said Judge Holt would fix a reasonable fee for the services of the said John Prunty as Special Master, but that when the said Special Master's Report

was filed and submitted to Judge Holt there appeared in the recommendations of the Special Master the recommendation that the Court order and direct the plaintiff therein to pay the fee of the said Special Master for his services in the cause; that the said report of the said Special Master was signed at the end thereof by the said John Prunty, as Special Master, immediately below said signature of the said John Prunty, and also as part of the said report, there appears the additional matter to the effect that the fees of the said Special Master, for his services in the cause had been paid by the plaintiff in the said cause who is the defendant herein, and that receipt of the said fees was acknowledged by the said John Prunty as Special Master, all of which matters and things were contrary and repugnant to and violative of the said Circuit Court Rule 10-D, the said Canons of Ethics adopted by the Supreme Court of Florida governing the conduct of Judges and attorneys, in that in said former divorce proceedings, the Master had failed to make a recommendation to the said Court as to a reasonable fee, and the said Court, the said Judge Holt presiding, had failed to inquire into the matter of the said fee paid by the defendant herein, who was the plaintiff in the said prior divorce proceedings, to the Special Master, as aforesaid, or to direct that the amount of the said fee and the time and place of payment thereof and all of the circumstances relevant thereto be reported to the said Court by the defendant herein, his said attorneys and the said Special Master and to the plaintiff herein who was the defendant in the said former divorce proceedings, although the said Court's attention had been specifically directed thereto by exception duly taken by the plaintiff herein, who was the defendant therein, specifically addressing objection to the said irregular and improper and highly prejudicial procedure in relation to the payment to the Special Master by the plaintiff therein of an undisclosed amount of money at an undisclosed time and undisclosed place, which exception was denied

and overruled by the said Judge Holt, and that the said Court adjudicated the reasonableness of the said fee, although it appears of record that at some undisclosed time, at some undisclosed place, while the said Special Master, John Prunty, was hearing said case and cause, and had said case and cause under consideration, the defendant herein, who was the plaintiff in the said former divorce proceedings, had paid to said Special Master an undisclosed amount of money, contrary to the said rule aforesaid, contrary to the Canons of Ethics adopted by the Supreme Court of Florida governing the conduct of Judges, Special Masters and Attorneys in such cases, and contrary to proper and ethical practice and procedure; that the plaintiff herein, who was the defendant therein, was thereby deprived of her right to be heard thereon, and of a fair and impartial trial, and of the equal protection of the laws, and of the benefits of due process of law guaranteed to the plaintiff herein by the laws of the State of Florida, the Constitution of the State of Florida; and the Constitution of the United States of America, and more particularly Sections 1, 4 and 12 of the Declaration of Rights of the Constitution of State of Florida, and Section 1 of the Fourteenth Amendment to the Constitution of the United States of America.

(e) That the said Judge Holt, in violation of his oath as an Attorney and of his oath of office as a Circuit Judge, and the said John Prunty, in violation of his oath as an Attorney-at-Law, did not recognize the Canons of Ethics adopted by the Supreme Court of Florida governing the conduct of Judges, Special Masters and Attorneys in this state, to be the law of the State of Florida and binding upon them, but the said Judge Holt and the said John Prunty did believe that they could, and, as in this Bill of Complaint is alleged by the plaintiff herein, they did violate and ignore, with impunity, the said Canons of Ethics, during and with respect to the said former divorce proceedings.

7.

Plaintiff herein further alleges that certain other matters and things which have transpired subsequent to the entry of the said decree of divorce in said former proceedings aforesaid which demonstrate and prove that the said former divorce proceedings were fraudulent in their inception and constituted a fraud upon the said Court in that said decree of divorce was obtained by the defendant herein, Norman N. Holland, as plaintiff in the said former divorce proceedings, by perjured testimony on the part of and by Norman N. Holland, defendant herein and plaintiff in said former divorce proceedings, and testimony adduced through witnesses called in his behalf, said perjury consisting of but not being limited to, sworn testimony and statements to the effect and in substance that he was domiciled in the State of Florida, and that he was not induced to institute said former divorce proceedings nor motivated by any desire to terminate his said marriage with the plaintiff herein in order to marry one Judith H. Wartell, and further to the effect and in substance that he, the said defendant herein and plaintiff in the said former divorce proceedings, was not in love with the said Judith H. Wartell, had no plans or intentions of marrying the said Judith H. Wartell, and had not discussed any proposed marriage or made any offer of marriage to the said Judith H. Wartell, the said defendant herein, Norman N. Holland, specifically swearing and alleging in his sworn testimony in the said former divorce proceedings that he was a domiciliary of the State of Florida and that he had no plans for said marriage with the said Judith H. Wartell and was not in love with her, all of which sworn testimony and statements were material to the issues in the said former divorce proceedings and were particularly relevant and material and vital to the defense of plaintiff herein, who was the defendant in the said former divorce proceedings. And plaintiff alleges that the said testimony of the

defendant herein, who was plaintiff in the said former divorce proceedings, further was vital, necessary and essential to the establishment of the bona fides of the case and essential and vital to the proof of jurisdictional facts necessary for the maintenance of said former divorce action in the State of Florida.

Plaintiff now alleges that said testimony and all of the other favorable testimony given by the defendant herein, as plaintiff in the said former divorce proceedings, and by the witnesses called in his behalf, was false, untrue and perjured and that the defendant, as plaintiff in the said former divorce proceedings, well knew, at the time of giving his said testimony, and adducing the testimony of the witnesses called in his behalf, that the same was false, untrue and perjured, and that said testimony was false, untrue and perjured is established and proven by matters and things transpiring since the entry of the final decree of divorce in said former proceedings, in that the said final decree was entered and filed on the 25th day of July, A. D. 1955, and that four (4) days later, to-wit: On the 29th day of July, A. D. 1955, the defendant herein, Norman N. Holland and the said Judith H. Wartell, the woman who was the subject of the testimony above set forth and who was involved in certain adulterous acts with said defendant herein, as will be hereinafter more fully alleged, made application for a marriage license at Fort Lauderdale, Broward County, Florida, and that subsequently, to-wit: On the 1st day of August, A. D. 1955, the marriage license was issued to the said Norman N. Holland and Judith H. Wartell and the said parties were married on the 4th day of August, A. D. 1955, the same being ten (10) days after the entry of the said decree of divorce in the said former proceedings, all of which matters and things were of course unknown and could not have been known to plaintiff herein by the exercise of reasonable diligence, but which matters and things demonstrate and evidence the fraud perpetrated upon plaintiff herein by the defendant herein and upon the Court in said former divorce proceedings.

Plaintiff further alleges in connection with the said marriage aforesaid between the defendant herein and the said Judith H. Wartell, that it appears from the record, Plaintiff's Exhibit "A" in this cause, that the defendant herein and the said Judith H. Wartell, instituted their actions for divorce at approximately the same time; that the said Judith H. Wartell instituted suit for divorce against plaintiff herein in Dade County, Florida, said divorce proceedings being referred to in this Bill of Complaint in the nature of a Bill of Review as the said former divorce proceedings between the parties herein; that the said Judith H. Wartell secured a decree of divorce from her then husband in or about the month of May, A. D. 1954, which would have been approximately the time when the defendant herein could have anticipated a decree in the said former divorce proceedings—where in the plaintiff herein was defendant and the defendant herein was plaintiff—had not the plaintiff herein interposed an answer and defended the said former divorce proceedings.

8.

Plaintiff alleges that the venal, corrupt relationship existing among the said Judge Holt, Morton Rothenberg, Jack D. Burris, John Prunty and Thurman A. Whiteside, as hereinabove alleged, were not known to and discovered by the plaintiff herein during the pendency of the said former divorce proceedings and became known to plaintiff herein gradually, and only after the investigations into the conduct, affairs and charges of misconduct and unethical practices in office of the said Judge Holt by the Grand Jury of Dade County for the Fall term of A. D. 1955 and succeeding Grand Juries in said County, the Special Investigating Committee of the Florida Bar and the adducement of certain evidence and testimony before the Special Investigating Committee of the House of Representatives of the State of Florida and the Senate of the State of Florida in the impeachment trial of the said Judge Holt, and that none of the matters and things hereinabove set forth and alleged which

are now known to the plaintiff herein were known or could have been known to the plaintiff herein by the exercise of reasonable diligence prior to the entry of the decree of divorce against the plaintiff herein in the said former divorce proceedings.

9.

Plaintiff alleges that the record in the said former divorce proceedings, which has been made a part hereof as plaintiff's Exhibit "A", is replete with evidence of venality, bias and prejudice on the part of the said Judge Holt and on the part of the said John Prunty, as Special Master, against the plaintiff herein, as the defendant, and in favor of the defendant herein as the plaintiff in the said former divorce proceedings, all of which was the direct result of the venal and corrupt relationship, hereinabove fully alleged, among the said Judge Holt, the said John Prunty, as Special Master, and his law partner, the said Thurman A. Whiteside, the defendant herein, who was the plaintiff in the said former divorce proceedings, and the said Stanley Joel Levine, Morton Rothenberg and Jack D. Burris, who were the Attorneys of Record of the plaintiff in the said former divorce proceedings and who is the defendant herein, and that, in consequence of the said venal and corrupt relationship, the said Judge Holt and the said John Prunty, as Special Master, knowingly ignored and failed to apply the substantive and adjective law of the State of Florida, then in effect, fairly and impartially, to the proceedings taken in and to the issues which arose during the course of the said former divorce proceedings and the trial thereof, and the decisions, rulings and orders made and the said report of the Special Master filed and the decree entered therein, all of which is fully evidenced by the said record in the said former divorce proceedings, plaintiff's Exhibit "A", and including, but not limited to the rulings and orders of Judge Holt limiting the plaintiff herein as the defendant in the said former divorce proceedings to counsel

fees of $500.00 and suit money of $200.00, as hereinabove alleged; the making and the entry of the order dated November 5th, 1954, suppressing the notice of the plaintiff herein, as the defendant in the said former divorce proceedings, to take the deposition of the plaintiff therein, who is the defendant herein; and directing the said cause to proceed to trial without said pre-trial deposition; the making and entry of the order dated November 5th, 1954, suppressing the deposition of the said Judith H. Wartell, without requiring the production of the said deposition for review by the said Court, and although, in the deposition the said Judith H. Wartell invoked the protection of the Fifth Amendment to the Constitution of the United States of America approximately 300 times, in response to questions which the said Judith H. Wartell deemed pertinent to the relationship and the course of conduct of the said Judith H. Wartell with the defendant herein; and the approval, affirmance, ratification and condonation by the said Judge Holt of the acceptance by John Prunty of an undisclosed amount of money allegedly for his services as Special Master in said cause and being exemplified by the rulings of the said John Prunty as Special Master, including, but not limited to his limiting of cross-examination by the attorneys for the Plaintiff herein as the defendant in the said former divorce proceedings of the witnesses produced in behalf of Norman N. Holland, the defendant herein, the plaintiff in the said former divorce proceedings, and further in holding and finding that the said Norman N. Holland did not commit adultery with the said Judith H. Wartell when the said Norman N. Holland, in his sworn testimony, made numerous admissions of fact which the Supreme Court of Florida has on numerous and recent occasions held to constitute proof of adultery and further by ignoring the testimony of eleven disinterested witnesses who testified on behalf of the plaintiff herein, as the defendant in the said former divorce proceedings, all of whom, with the exception of three, were close personal friends of both parties, and

all of the forty-six items of documentary evidence, hereinafter described, introduced by the plaintiff herein as the defendant in the said former divorce proceedings, evidencing the warped and depraved mind and actions and the fraud and perjury of the defendant herein.

Plaintiff thereupon alleges that except for the bias and prejudice of the said Judge Holt and the said John Prunty, the decree of divorce granted to the defendant herein in the said former divorce proceedings would never have been entered and that the said decree of divorce was obtained by fraud, and the exercise of undue, venal and corrupt influence arising out of the improper venal and corrupt relationship hereinabove alleged, and that had any fair, unprejudiced and unbiased Court had before it the proceedings in the said former divorce action, together with the facts recently discovered and alleged herein, the said decree of divorce would not have been entered.

Plaintiff thereupon alleges that the said former decree of divorce should be set aside, vacated and declared null and void.

10.

Plaintiff further alleges that prior to the time that the said John Prunty, as Special Master, had completed and filed his report in the said former divorce proceedings, the defendant herein, Norman N. Holland, spoke to the plaintiff herein on the telephone and informed her, among other matters, in substance as follows:

(a) That the case had been fixed in his favor;

(b) That the Special Master, the said John Prunty, had made a report, recommending that he, Norman N. Holland be granted a divorce.

11.

Plaintiff alleges that the final decree of divorce in the said former proceedings was entered on the 25th day of July, A. D. 1955, and that thereafter and on or about or

shortly prior to the 4th day of October, A. D. 1955, certain overtures were made to the attorneys for the plaintiff herein by the attorneys of record for the defendant herein, the purpose of which was represented by the attorneys of record for the defendant herein to be to reach an agreement of settlement whereby the plaintiff herein would agree to discontinue her appeal from the said decree of divorce; that on the date last mentioned, the Honorable Stanley Joel Levine, one of the attorneys of record for Norman N. Holland, the plaintiff in said divorce proceedings, attended a conference which the said Stanley Joel Levine had arranged ostensibly for the aforesaid purpose with the attorneys representing the plaintiff herein, the defendant in the said former divorce proceedings, to-wit: Honorable Louis S. Bonsteel, of the firm of Smathers, Thompson, Maxwell and Dyer, and with Jerome J. Wallner, Esq., of New York counsel, for Sylvia Schindler Holland, the plaintiff herein; that during course of said conference, the said Stanley Joel Levine, in substance, made the following statements:

(a) That he, the said Stanley Joel Levine, subscribed to the belief that, in the practice of the law, it was ethical and proper for an attorney at law to offer to pay or to arrange for his client to offer and to pay a bribe to people in public office if the purpose of the bribe was to secure rights to which the client believed he was entitled.

(b) That, in the then pending case, to-wit, the divorce action of the said Norman N. Holland, the plaintiff therein, against the said Sylvia Schindler Holland, the defendant therein, Sylvia Schindler Holland, did not have a chance to prevail in said action, regardless of the proof that might be adduced in her favor against the contentions of the said Norman N. Holland.

(c) That it was a matter of common knowledge that the said Judge Holt spends more than three times his visible

income and that he, the said Stanley Joel Levine, knew where the said Judge Holt obtained extra funds for his living expenses; that the said Judge Holt, was owned by three men from Miami Beach, and that he, the said Stanley Joel Levine, well knew the three men and how to reach them.

(d) That he, the said Stanley Joel Levine, could also tell a very interesting story about the said John Prunty, and that, at the conclusion of the divorce action, he would relate the said interesting story about the said John Prunty.

(e) That an offer was being made after the entry of the decree in favor of the defendant herein, the said Norman N. Holland, because the said Norman N. Holland was anxious to return immediately to the State of New York to live and where he could earn more than two or three times the amount of money he was earning in Florida, and that, the said Norman N. Holland was anxious to avoid the delay in returning to New York of at least a year that would be occasioned by the said appeal by the plaintiff herein to said Supreme Court.

(f) That the said Stanley Joel Levine further stated that he knew of the telephone call hereinabove alleged from Norman N. Holland, the defendant herein, to Sylvia Schindler Holland, the plaintiff herein, during which the said Norman N. Holland had informed the said Sylvia Schindler Holland of the fact that the case had been fixed and that the Master had ruled in his favor.

Plaintiff further alleges that, after the said conference, her attorneys of record in the said former divorce proceedings, believed it to be their duty and responsibility to report to the said Judge Holt the matters and things stated by the said Stanley Joel Levine, as hereinabove alleged and, a few days subsequent to the said conference with the said Stanley Joel Levine, the Honorable Louis S. Bonsteel and the Honorable Richards V. Maxwell, of the firm of

Smathers, Thompson, Maxwell and Dyer, Esqs. went to the Chambers of the said Judge Holt and there fully informed the said Judge Holt of the statements and remarks made by the said Stanley Joel Levine at the said conference with the said Louis S. Bonsteel and the said Jerome J. Wallner, and, at the conclusion of the said conference with the said Judge Holt, the said Judge Holt expressed appreciation to the said attorneys for disclosing said matters and remarks to him.

Plaintiff further alleges that the said Judge Holt took no action whatever with respect to the aforesaid matters and remarks disclosed to the said Judge Holt during the aforesaid conference by the said Louis S. Bonsteel and Richards V. Maxwell.

12.

Plaintiff herein alleges that the rulings and the said report of the said Special Master, John Prunty, were and are the result of venality, corruption, bias and prejudice resulting from the matters and things herein alleged, and all of which fully appear from the record in the said former divorce proceedings, which is made part hereof as Plaintiff's Exhibit "A".

13.

The venality, corruption, bias and prejudice of the said John Prunty, as Special Master, appears in innumerable rulings and remarks, during the progress of the cause before him and in his report, including but not limited to the following:

While recognizing the existence of documentary evidence which conclusively impeached the plaintiff in the said former divorce proceedings and which conclusively demonstrated the truth of the defendant in the said former divorce proceedings, the Special Master did not consider such evidence, evaluate the same, or give any heed thereto in his Report, completely ignoring the manifest

weight of some 46 items of documentary evidence—consisting of agreements, two reels of motion pictures in color, photographs, contracts, letters, skits, scripts, magazine articles, the United States Department of Commerce local weather report for New York City during the month of December, 1953, and other papers, all of which were vitally material and relevant, the genuineness and correctness of which was undenied and uncontradicted, and also the crucial admissions made by the plaintiff therein during the course of his testimony, as hereinafter more fully alleged, and the uncontroverted testimony in favor of the defendant therein, adduced through eleven disinterested witnesses called in behalf of the defendant therein, and all but three of whom had been close personal friends of both parties for many years prior thereto.

14.

That although the record demonstrates, without denial or contradiction, that the following facts existed in regard to the relations between the defendant herein, the said Norman N. Holland, and the said Judith H. Wartell, to wit:

That the said Judith H. Wartell and her then husband, Burton Wartell, were married and the parents of two children, and the plaintiff and the defendant herein, Sylvia Schindler Holland and Norman N. Holland, were married and the parents of two children, both families enjoying a happy family existence; that the said families resided in the State of New York; that, in 1952, the plaintiff and the defendant herein decided to sell the home which they then owned and the said Wartells desired to and did purchase the said home, thus bringing about the first acquaintanceship between the said families; which acquaintanceship, however, rapidly developed into friendship between the families during the course of which the said Wartells visited at the new home of the parties to this suit daily, with

rare exception, but it developed that the said Burton Wartell was required by his employment to go to work in the early hours of the morning and he frequently retired from social festivities earlier than his wife, the said Judith H. Wartell desired to retire, and it became customary for the said Burton Wartell to leave the home of the parties herein earlier than his said wife, Judith H. Wartell; that thereafter and later in the evening, the defendant herein, Norman N. Holland, would take the said Judith H. Wartell to her home; that the said Judith H. Wartell began to take part in the skits and shows directed by the defendant herein and it became obvious and a matter of public notice that the defendant herein, and the said Judith H. Wartell, were involved in certain indiscretions and were becoming more intimate than was proper; that the defendant herein and the said Judith H. Wartell frequently engaged in kissing and embracing in the presence of guests in the homes of friends and in public places, and each devoted his or her attentions almost exclusively to the other and that an adulterous course of conduct between the defendant herein and the said Judith H. Wartell soon became apparent, and caused the many close friends of the parties herein, of many years standing, a number of whom testified at the trial in the said former divorce proceedings, to cease attending social affairs and exchanging visits with the parties herein, and gradually the parties herein found that they were abandoned by their old friends, and that in lieu of the said friends, the plaintiff herein was being compelled by the defendant herein to associate and to consort with friends of the said Judith and Burton Wartell, the average age of whom was at least ten years younger than the age of the parties herein and their former friends of long standing; that the said new friends drank to excess, and otherwise caused the plaintiff herein to suffer extreme humiliation and embarrassment; that the attitude of the defendant herein towards the plaintiff herein changed com-

pletely from that of a loving, respecting husband towards a loving and respecting wife; that the defendant herein continued his said intimacies and adulterous course of conduct with the said Judith H. Wartell, and he became cross, irritable, extremely cruel and highly abusive towards the plaintiff herein and the two children born of the parties, thereby causing to the plaintiff herein further unbearable humiliation, embarrassment, emotional distress and physical illness, all of which is uncontrovertibly proven in the testimony adduced on the trial in the said former divorce proceedings and made a part hereof by reference as plaintiff's Exhibit "A", all of which matters and things —together with the execution of the fraudulent plan and scheme of the defendant herein, and the said Judith H. Wartell, whereby the defendant herein agreed to abandon and to obtain a divorce from the plaintiff herein, and the said Judith H. Wartell agreed to obtain a divorce from her then husband, the said Burton Wartell, and that the defendant herein and the said Judith H. Wartell would then marry each other—led eventually to the cessation of marital relations, and the abscondance by defendant herein from the home of the parties herein, the abandonment by the defendant herein of the plaintiff herein and their two children, and the failure of the defendant herein to adequately provide for the maintenance and support of the plaintiff herein and their two children.

The facts hereinabove alleged are proven by an overwhelming mass of sworn testimony and, with this situation prevailing, the admissions of the defendant herein of his intimacies with the said Judith H. Wartell conclusively demonstrate and prove the adulterous relationship between the defendant herein and the said Judith H. Wartell, the fraudulent plan and scheme of the defendant and the said Judith H. Wartell, hereinabove alleged, and the perjury on the part of the defendant herein and the witnesses called in behalf of the defendant herein as the plain-

tiff on the trial in the said former divorce proceedings, the said admissions being in substance, as follows: that on five separate occasions, at night, the defendant herein and the said Judith H. Wartell, separately, alone, and in separate automobiles, drove to an appointed place in or near the Long Island Railroad Station, in the town of Valley Stream, in the State of New York, which place was many miles distant from the respective homes of the defendant herein and the said Judith H. Wartell, and the defendant herein and the said Judith H. Wartell would then leave one of the said automobiles and drive away together in the other of the said automobiles to divers places, including the notorious and dark Lovers' Lane in Forest Park, in New York City, in the State of New York, and stay together for many hours; that on the night of December 13th, 1953, the defendant herein met the said Judith H. Wartell at the said Long Island Railroad Station, parked his automobile, entered the automobile of the said Judith H. Wartell, alone in the company of each other, after a few minor delays and stops, drove to and entered Forest Park, at which time and place the following matters and things transpired, all of which were specifically admitted by the defendant herein:

(a) The defendant herein and the said Judith H. Wartell drove their car to a dark parking place in the said park;

(b) The lights of the said automobile were extinguished and it was dark inside of the said automobile;

(c) The defendant herein and the said Judith H. Wartell got into the back seat of their said automobile, the windows of which were closed;

(d) The defendant herein removed his overcoat and jacket and put them along the rear deck of the seat of said automobile, he was dressed in a shirt and trousers;

(e) The said Judith H. Wartell removed her coat and it was hung on a little hook near a side window of the said automobile. She was dressed in a skirt and blouse.

(f) According to the United States Department of Commerce Weather Bureau's local weather report (Defendant's Exhibit "A-7" in the former divorce proceedings), the temperature prevailing at that time in New York City, in the State of New York, was 46°F.

(g) The defendant herein and the said Judith H. Wartell remained in the rear of the said automobile for approximately one hour;

(h) The fly of the trousers of defendant herein was unzipped and his trousers were open.

(i) The defendant herein and the said Judith H. Wartell were embracing and kissing each other, and their bodies were in contact with one another.

all of which admissions constitute sufficient evidence to prove adultery under the decisions and laws of the State of Florida, and the perjury on the part of the defendant herein, and the witnesses called in his behalf on the trial in the said former divorce proceedings.

The venality, corruptness, bias and prejudice of the Master is overwhelmingly evidenced in that he found and reported that, the above admitted facts notwithstanding, he did not believe that adultery had been committed between the defendant herein and the said Judith H. Wartell.

15.

The bias and prejudice of the said Special Master, John Prunty, is especially evident in the summary of the testimony that he accepted and believed to-wit:

(a) He accepted the testimony of relatives and friends of the said Norman N. Holland, the plaintiff therein and defendant herein, as true in each and every particular,

although uncorroborated and patently replete with perjury and unworthy of belief.

(b) He ignored, made no comment on or made no reference to testimony of disinterested persons and mutual friends of the parties herein who testified in behalf of the plaintiff herein who was the defendant in the said former divorce proceedings, although the said testimony was highly credible and most pertinent and relevant to and should have been decisive of all of the material issues in the said cause.

(c) He gave full weight in every particular to the testimony of the defendant herein who was the plaintiff in the said former divorce proceedings, although the said testimony was uncorroborated and replete with perjury and unworthy of belief, and he ignored and disregarded the admissions of the defendant herein on many crucial issues, including, but not limited to his adulterous course of conduct, adultery and intimacies with the said Judith H. Wartell.

16.

Plaintiff herein thereupon alleges that the findings of the Special Master, John Prunty, in the said former divorce proceedings and the adoption thereof by the said Judge George Holt, and the entry of the said final decree of divorce in the said former divorce proceedings was the result of venality, corruption, bias and prejudice on the part of the said John Prunty, as Special Master, and the said Judge Holt, in favor of Norman N. Holland, the defendant herein and against Sylvia Schindler Holland, the plaintiff herein.

17.

Plaintiff alleges that the conduct alleged herein as to Judge George E. Holt and Special Master John Prunty is violative of Rules and Canons adopted by this Court governing the conduct of attorneys in the State of Florida; and more particularly violative of the following:

"Marked attention and unusual hospitality on the part of a lawyer to a Judge, uncalled for by the personal relations of the parties, subject both the Judge and the lawyer to misconstructions of motive and should be avoided * * *." (Canon 3 of Canons of Professional Ethics)

"A judge should abstain from making personal investments in enterprises which are apt to be involved in litigation in the court; and after his accession to the Bench, he should not retain such investments previously made, longer than a period sufficient to enable him to dispose of them without serious loss. It is desirable that he should, so far as reasonably possible, refrain from all relations which would normally tend to arouse the suspicion that such relations warp or bias his judgment, or prevent his impartial attitude of mind in the administration of his judicial duties. * * *" (Canon 26 of Canons of Judicial Ethics.)

"A judge should not accept any presents or favors from litigants or from lawyers practicing before him or from others whose interests are likely to be submitted to him for judgment." (Canon 32 of Canons of Judicial Ethics.)

"It is not necessary to the proper performance of judicial duty that a judge should live in retirement or seclusion; it is desirable that, so far as reasonable attention to the completion of his work will permit, he continue to mingle in social intercourse, and that he should not discontinue his interest in, or appearance at meetings of members of the Bar. He should, however, in pending or prospective litigation before him be particularly careful to avoid such action as may reasonably tend to awaken the suspicion that his social or business relations or friendships constitute an element in influencing his judicial conduct." (Canon 33 of Canons of Judicial Ethics.)

18.

Plaintiff further alleges that the matters and things alleged herein as the basis of relief to plaintiff were unknown to plaintiff at the time of the entry of Final Decree in the cause wherein Norman N. Holland was plaintiff and Sylvia Schindler Holland was defendant, being Chancery Case No. 169465-A lately pending in the Circuit Court of Dade County, Florida, said Final Decree being entered therein on the 25th day of July, A. D. 1955, nor could have such matters and things been known to plaintiff herein by the exercise of reasonable diligence, but such things were revealed gradually and became known to plaintiff only through means of certain investigations and reports made by Grand Juries of Dade County, Florida, and the investigation made by the House of Representatives and the records of the impeachment trial of Judge George E. Holt which complete reports and records have only recently been available to plaintiff herein, and plaintiff alleges that she has proceeded with all diligence after such complete records and reports revealed the matters and things alleged herein.

WHEREFORE, plaintiff prays:

(1) That the Final Decree entered in the cause, Norman N. Holland, plaintiff, vs. Sylvia Schindler Holland, defendant, being Chancery Cause No. 169465-A, lately pending in the Circuit Court of the Eleventh Judicial Circuit in and for Dade County, Florida, on the 25th day of July, A. D. 1955, be reviewed and reversed, vacated, set aside and declared to be null and void and of no effect in law or equity, and no further proceedings be taken thereon, and that plaintiff have such other and further relief as shall be meet and proper.

s/ SYLVIA SCHINDLER HOLLAND,
Plaintiff.

(Sworn to January 29, 1958.)

ORDER OF COURT OF APPEALS FOR DISTRICT OF COLUMBIA CIRCUIT, DATED APRIL 17, 1958 IN WKAT ET AL. V. F. C. C.

UNITED STATES COURT OF APPEALS

FOR THE DISTRICT OF COLUMBIA CIRCUIT

April Term, 1958

Nos. 13,718, 14,021, and 14,170

WKAT, INC.,

Appellant,

—v.—

FEDERAL COMMUNICATIONS COMMISSION,

Appellee,

PUBLIC SERVICE TELEVISION, INC.,

Intervenor.

No. 13,725

EASTERN AIR LINES, INC.,

Appellant,

—v.—

FEDERAL COMMUNICATIONS COMMISSION,

Appellee,

PUBLIC SERVICE TELEVISION, INC.,

Intervenor.

Before:

PRETTYMAN, WASHINGTON, and DANAHER,
Circuit Judges.

These cases came on for consideration of appellee's motion to remand the cases to the Federal Communications Commission and said motion was argued by counsel.

It appearing that the Commission alleges in its motion that since the filing of these appeals, public charges have been made in the course of a Congressional investigation that one of the Commissioners who participated in the proceedings before the Commission, but who has since resigned, should have disqualified himself; and the Commission having lodged with the Clerk of this Court a transcript of the said investigation; and it having been agreed in oral argument that charges of the described nature was made in the said Congressional investigation; and it further appearing that the Commission has deemed the evidence brought to its attention to be sufficiently serious to warrant a motion to remand;

Therefore, for the purposes hereinafter indicated it is hereby ordered that these cases be remanded to the Commission with instructions to proceed forthwith to hold an evidentiary hearing concerning the possibility that the award heretofore made may be void *ab initio* or voidable and that a party, or various parties, may be disqualified by reason of misconduct to receive an award of a television construction permit, and in connection with that hearing the Commission shall make, at least in part but not be limited to, findings of fact in the following particulars

what circumstances formed the basis for the public charges that one of the members of the Commission should have disqualified himself in these proceedings; and

whether any person or persons influenced or attempted to influence any member of the Commission in respect to the present proceedings in any manner whatsoever except by the recognized and public processes of adjudication (see Root Refining Co. v. Universal Oil Products Co., 169 F. 2d 514, 534-5, 540-1 (3d Cir. 1948)), and, if so, the full facts and circumstances; and

whether any party to the proceeding before the Commission directly or indirectly secured, aided, confirmed, ratified, or knew of any misconduct found by the Commission to have occurred;

And it is further ordered that all parties to these cases before the Commission shall be admitted to participate as parties in the evidentiary hearing, if they so request, and that any person or persons concerning whom evidence may be received in the said hearing shall be permitted to cross-examine and to submit rebuttal testimony if he or they request the opportunity to do so.

And the Commission is further instructed to report its findings to this court and recommend to this Court such disposition of these appeals as seems to it necessary or desirable in view of its findings of fact;

And the Commission is further instructed to notify the Attorney General of the United States of the pendency of its evidentiary hearing and the purpose thereof; and to permit him, or his designated representative, if he so moves, to participate in the hearing as amicus curiae;

And it is further ordered that this Court retain jurisdiction of these appeals pending receipt of the findings and report of the Commission pursuant to this order;

And it is further ordered that the Commission report to this Court its progress upon the foregoing duties within six weeks from this date, including such recommendations as seem to the Commission to be desirable at that stage of the proceeding.

Per Curiam.

Dated: April 17, 1958.